

ORIGINAL

1983 FORM Rev. 01/2008

A4026025

Name and Prisoner/Booking Number

Halawa Correctional facility

Place of Confinement

99/202 Moanalua Dr.

Mailing Address

Aiea, HI 96701

City, State, Zip Code

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

OCT 25 2019

at 4 o'clock and 12 min. P M
SUE BEITIA, CLERKUNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

LEK

CV 19 00584 KJM

BASCAR, Nahale, Bronson

(Full Name of Plaintiff)

(To be supplied by the Clerk)

vs.

PRISONER CIVIL RIGHTS COMPLAINT

State of Hawaii

Public Safety dept.

- ☐ Original Complaint
☐ First Amended Complaint
☐ Second Amended Complaint

(Full Names of Defendants; DO NOT USE *et al.*)

A. JURISDICTION

1. Jurisdiction is invoked pursuant to:

- a. ☐ 28 U.S.C. § 1343(a)(3); 42 U.S.C. § 1983
b. ☐ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971)
c. ☐ Other: (Please Specify)

2. Plaintiff: ~~State of Hawaii Public Safety~~ BASCAR, Nahale, BASCAR

Institution/city where violation occurred: Maui Community Correctional Center

3. First Defendant *: State of Hawaii Public Safety

This defendant is a citizen of (state and county) Hawaii, Maui
and is employed as:

at

(Position and Title)

(Institution)

This defendant is sued in his/her ___ individual ___ official capacity (check one or both). Explain how

Received By Mail

Date 10/25/19

1983 FORM Rev. 01/2008

this defendant was acting under color of law:

4. Second Defendant: Lt Mercovich - Gail MercovichThis defendant is a citizen of (state and county) Mau Hi,
, and is employed as:Lt.

(Position and Title)

at

M.E.C.C.

(Institution)

This defendant is sued in his/her ___ individual ___ official capacity (check one or both). Explain how this defendant was acting under color of law:

she is head of disciplinary sanction

5. Third Defendant: _____

This defendant is a citizen of (state and county) _____
, and is employed as:

at

(Position and Title)

(Institution)

This defendant is sued in his/her ___ individual ___ official capacity (check one or both): Explain how this defendant was acting under color of law:

(If you would like to name additional defendants, make a copy of this (blank) page and provide the necessary information.)

* A defendant may be named in an individual or official capacity, or both. To sue a defendant in their individual capacity, you must be able to state facts showing that the defendant was actually involved in violating your rights. A suit against a defendant in their official capacity is in reality a suit against the office or position the defendant holds. Only injunctive relief is available in an official capacity suit against a state official. This is because the Eleventh Amendment confers immunity upon the state or its officials against monetary damages resulting from federal court litigation.

"Color of law" refers to whether the person is a private party or an employee, official, or agent of a state, county, city, or the federal government. There can be no civil rights action under § 1983 unless the defendant was "acting under color of law." After the color of law requirement is met, then it must be determined in which capacity the defendant is being sued.

1983 FORM Rev. 01/2008

B. PREVIOUS LAWSUITS

1. Have you brought any other lawsuits while a prisoner: ☐ Yes ☒ No
2. If your answer is yes, how many?: _____ Describe the lawsuit in the spaces below.
3. First previous lawsuit:
 - a. Plaintiff _____
Defendants _____
 - b. Court and Case Number (if federal court, identify the district; if state court, identify the county):

 - c. Claims raised: _____
 - d. Disposition (For example: Was the case dismissed? Was it appealed? Is it still pending?)

 - e. Approximate date of filing lawsuit _____
 - f. Approximate date of disposition _____
4. Second previous lawsuit:
 - a. Plaintiff _____
Defendants _____
 - b. Court and Case Number (if federal court, identify the district; if state court, identify the county):

 - c. Claims raised: _____
 - d. Disposition (For example: Was the case dismissed? Was it appealed? Is it still pending?)

 - e. Approximate date of filing lawsuit _____
 - f. Approximate date of disposition _____

1983 FORM Rev. 01/2008

5. Third previous lawsuit:

- a. Plaintiff _____
Defendants _____
- b. Court and Case Number (if federal court, identify the district; if state court, identify the county):

- c. Claims raised: _____
- d. Disposition (For example: Was the case dismissed? Was it appealed? Is it still pending?)

- e. Approximate date of filing lawsuit _____
- f. Approximate date of disposition _____

(If you have filed more than three lawsuits, make a copy of this (blank) page and provide the necessary information.)

6. Have you filed any actions in federal court that were dismissed because they were frivolous, malicious, or failed to state a claim upon which relief could be granted? ___ Yes ☒ No.

If you have had three or more previous federal actions dismissed for any of the reasons stated above, you may not bring another civil action in forma pauperis unless you are under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

1983 FORM Rev. 01/2008

C. CAUSE OF ACTION

COUNT I

1. The following constitutional or other federal civil right has been violated by the Defendant(s):

14 ammend ment

2. Count I involves: (Check only one; if your claim involves more than one issue, each issue should be stated in a different count)

☐ Mail ☒ Access to the court ☐ Medical care
☐ Disciplinary proceedings ☐ Property ☐ Exercise of religion ☐ Retaliation
☐ Excessive force by an officer ☐ Threat to safety ☐ Other: _____

3. Supporting Facts: (State as briefly as possible the FACTS supporting Count I, without citing legal authority or arguments. Describe exactly what each Defendant did or did not do to violate your rights.)

ON 4.22.19 I WAS CHARGED \$2,716 to My Suspended account
 Without showing Receipts OR proof of cost of DAMAGE
 I WAS FOUND GUILTY TO FROM A WRITEUP. I WAS PRE-TRIAL
 DETAINEE & SHOD BE ALLOWED ACCESS TO COURT SYSTEM
 AND DUE PROCESS TO ASSESS DAMAGES I MAY HAVE
 BEEN RESPONSIBLE FOR.

4. Injury: (State how you have been injured by Defendant(s)' actions or inactions.)

1983 FORM Rev. 01/2008

COUNT II

1. The following constitutional or other federal civil right has been violated by the Defendant(s):

14th ammendment

2. Count II involves: (Check only one; if your claim involves more than one issue, each issue should be stated in a different count)

☒ Disciplinary proceedings ☐ Mail ☐ Access to the court ☐ Medical care
☐ Excessive force by an officer ☐ Property ☐ Exercise of religion ☐ Retaliation
☐ Threat to safety ☐ Other: _____

3. Supporting Facts: (State as briefly as possible the FACTS supporting Count II, without citing legal authority or arguments. Describe exactly what each Defendant did or did not do to violate your rights.)

ON 4-22-11 I WAS CHARGED \$21K FOR DAMAGES I DIDNT
COMMIT... THEY SPLIT DAMAGES EQUALLY AMONGST ALL GUILTY
PARTYS. EVEN WHEN TWO SEPERATE MODULES HAD A
TREMENDOUS AMOUNT OF DIFFERENCE IN PROPERTY
DAMAGE. MOD B WAS DAMAGED WAY MOD A WHERE
I WAS BUT I GOT CHARGED THE SAME AS PEOPLE IN
MOD A.

4. Injury: (State how you have been injured by Defendant(s)' actions or inactions.)

1983 FORM Rev. 01/2008

COUNT III

1. The following constitutional or other federal civil right has been violated by the Defendant(s):

14th amendment

2. Count III involves: (Check only one; if your claim involves more than one issue, each issue should be stated in a different count)

☐ Mail ☐ Access to the court ☐ Medical care
☐ Disciplinary proceedings ☒ Property ☐ Exercise of religion ☒ Retaliation
☐ Excessive force by an officer ☐ Threat to safety ☐ Other: _____

3. Supporting Facts: (State as briefly as possible the FACTS supporting Count III, without citing legal authority or arguments. Describe exactly what each Defendant did or did not do to violate your rights.)

ON 3-11-19 ALL OF MY COMMISSARY, PERSONAL PROPERTY,
 Hygiene, CLOTHES, SHOES, WAS THROWN AWAY. ALL ITEMS WERE
 PLACED IN A PLASTIC BAG TO KEEP AWAY FROM ANTS AND
 THE A.C.O.' CAME INTO MY ROOM IN A FORM OF RETALIATION
 & THREW AWAY ALL MY PERSONAL PROPERTY. CLAIMING IT HAD
 BEEN WET. IT WAS ALL IN A PLASTIC BAG. PLACED ON TOP
 BANK & WE LOCKED OUR DOORS.

4. Injury: (State how you have been injured by Defendant(s)' actions or inactions.)

(If you assert more than three Counts, make a copy of this (blank) page and provide the necessary information.)

1983 FORM Rev. 01/2008


D. REQUEST FOR RELIEF

State briefly exactly what you want the Court to do for you. Make no legal arguments. Cite no cases or statutes.

I WOULD LIKE TO Adjust the Restitution, be allowed to show ^{reimbursement} damages I was responsible for, or have a trial being I was pretrial. I would like to be reimbursed for property thrown away & damaged.

I understand that a false statement or answer to any question in this complaint will subject me to penalties of perjury. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. See 28 U.S.C. § 1746 and 18 U.S.C. §1621.

Signed this 13 day of Oct, 2019.
(month) (year)


(Signature of Plaintiff)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If needed, you may attach no more than **fifteen (15) additional pages**. Number these pages in relation to the final page number of the section that is being extended (i.e. additional defendants' pages should be numbered "2A, 2B, etc.," additional previous lawsuits' pages "4A, 4B, etc.," additional claims should be numbered "7A, 7B, etc." This form, however, must be completely filled in to the extent applicable.